

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

395 LAMPE, LLC, a Nevada limited  
liability company,

Plaintiff/  
Counterclaim Defendant

v.

KAWISH, LLC, a Washington limited  
liability company; and TIMOTHY L.  
BLIXSETH and JANE DOE BLIXSETH,  
husband and wife,

Defendants/  
Counterclaim Plaintiffs/  
Third-Party Plaintiffs,

v.

WAYNE L. PRIM, an individual residing  
in Nevada; THE BLACKSTONE  
CORPORATION, a Washington  
corporation; PRIM 1988 REVOCABLE  
TRUST, a private trust; and OVERLOOK  
PARTNERS, LLC, a Washington limited  
liability company,

Third-Party Defendants.

Case No. 2:12-cv-01503-RAJ

PROPOSED ORDER GRANTING 395  
LAMPE, LLC'S MOTION TO  
DISMISS OR STAY

**NOTE ON MOTION CALENDAR:  
OCTOBER 26, 2012**

**ORAL ARGUMENT REQUESTED**

PROPOSED ORDER GRANTING  
MOTION TO DISMISS OR STAY  
Case No. 2:12-cv-01503-RAJ

-1- **WITHERSPOON • KELLEY**  
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395 Lampe LLC's Motion to Dismiss or Stay the causes of action contained in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint came for hearing before the Honorable Richard A. Jones, United States District Court Judge for the Western District of Washington

**I. HEARING & RECORD**

**1.1 Date:** The Court considered counsels' arguments on \_\_\_\_\_, 2012.

**1.2 Appearances:**

a. Plaintiff 395 Lampe, LLC appeared through its counsel of record:

Witherspoon Kelley;

b. Defendants Kawish, LLC and Timothy L. Blixseth appeared through their counsel of record: Brain Law Firm;

c. Third-Party Defendant Overlook Partners, LLC appeared through

\_\_\_\_\_:

d. Third Party Defendant \_\_\_\_\_ appeared through

\_\_\_\_\_; and

e. None of the remaining Third-Party Defendants appeared.

**1.3 Record :** The Court considered the following pleadings:

a. 395 Lampe LLC's Motion to Dismiss or Stay;

b. The Declaration of Austin K. Sweet in Support of Motion to Dismiss;

c. \_\_\_\_\_;  
\_\_\_\_\_; and

d. \_\_\_\_\_;  
\_\_\_\_\_.

**II. FINDINGS OF FACT**

The Court hereby FINDS that:

1. Kawish, LLC, and Timothy L. Blixseth contractually agreed to litigate any disputes over the Loan Documents under Nevada law and in Washoe County or Douglas County, Nevada;

2. A lawsuit which is capable of resolving the dispute between Timothy L. Blixseth and Wayne L. Prim, and their respective entities, is already pending in the State of Nevada;

3. The claims raised in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint do not arise out of the transaction or occurrence giving rise to this judicial foreclosure;

4. The Seventh Cause of Action contained in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint is currently moot due to the stay imposed by 11 USC 362;

5. The claims raised in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint against Overlook Partners, LLC are the subject of a lawsuit pending in Montana;

**THE COURT, THEREFORE, ORDERS** that:

1. The first six causes of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint are dismissed without prejudice to be litigated in the appropriate state or federal court located in the State of Nevada;

2. The seventh cause of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint is dismissed as moot;

3. The eighth and ninth causes of action alleged in the Amended Answer, Affirmative Defenses and Counterclaim and Third-Party Complaint are dismissed without prejudice to be litigated as appropriate in the Montana Fifth Judicial District Court, Madison County, Case No. DV-29-2007-5, or, if inappropriate, to be re-filed after the conclusion of that case.

DONE this \_\_\_\_ day of September, 2012.

Honorable Richard A. Jones  
United States District Court Judge

Presented by:

**WITHERSPOON • KELLEY**

By: s/Jody M. McCormick  
Jody M. McCormick, WSBA No. 26351  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 28th day of September, 2012,

1. I caused to be electronically filed the foregoing PROPOSED ORDER GRANTING 395 LAMPE, LLC'S MOTION TO DISMISS OR STAY with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: **Paul E. Brain, Attorney for Plaintiff, Thomas Scott Linde, Attorney for Blackstone Corporation**
2. I hereby certify that I have mailed by United States Postal Service the foregoing to the following non-CM/ECF participants at the address listed below: **None.**
3. I hereby certify that I have mailed by United States Postal Service the document to the following CM/ECF participants at the address listed below: **None.**
4. I hereby certify that I have hand-delivered the document to the following participants at the addresses listed below: **None.**

s/ Jody M. McCormick  
Jody M. McCormick, WSBA No. 26351  
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